

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In the matter of the appeal of

JEFFREY J. CORN

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

MPD Personnel Order No. 2009-105

Hearing Date: April 14, 2010

Conducted Before: Commissioner Sarah W. Morgan
Commissioner Kathryn A. Hein
Commissioner Paoi X. Lor

John J. Carter acting as FPC Hearing Examiner

Appearances: Chief of Police Edward Flynn by Assistant City Attorney
Patricia Fricker

Allegations: Violation of MPD Rule 5, Section 2/500.25: Failure to apply for
and receive a leave of absence without pay or a disability pension
within ninety days of exhausting benefits.

Violation of MPD Rule 5, Section 2/500.55: Absent without leave.

SUMMARY OF PROCEEDINGS

At the hearing on April 14, 2010, testimony was received from Lieutenant Mercedes Cowan, Sergeant Michelle Pagan and Assistant Chief of Police Edward Liebrecht. A transcript of the proceedings is attached and made a part of the record. As a result, a summary of the testimony from each witness will not be provided here.

FINDINGS OF FACT

1. The hearing was commenced at 8:36 a.m., and the Hearing Examiner, Attorney John J. Carter, called the matter and placed upon the record that the respondent/appellant had received written notice of the hearing as is more fully represented by the trial notice on file with the Commission; and

2. The Hearing Examiner having telephoned the cellular phone number that Sgt. Corn had provided the Commission and Hearing Examiner, Carter having left two messages requesting Sgt. Corn respond and arrange for a pre-trial conference; and
3. The record reflects that Sgt. Corn contacted the Commission requesting that the date set for the filing of his witness list and exhibit list be extended and having passed without any further contact from Sgt. Corn; and
4. Attorney Fricker called two witnesses in Phase I and introduced Exhibit 1, which was received into evidence and which represented the summary of the investigation conducted into the alleged violations; and
5. Lieutenant Mercedes Cowan testified that she had reviewed the Exhibit and found that there was not sufficient cause for Sgt. Corn's absence without leave, and Sgt. Corn's failure to respond to written notice requiring his notification to the Department as to his need to file for disability, medical leave or return to work; and
6. Sgt. Michelle Pagan testified that she personally interviewed Sgt. Corn and of her own knowledge had Sgt. Corn indicate that he was aware of the charges and what was required of him; and
7. That Sgt. Corn was aware that he was charged with violation of Rule 5, Section 2/500.25, failure to file for disability, medical leave or report to work and violation of Rule 5, Section 2/500.55, absent without leave; and
8. There being no other witnesses called by the Chief of Police, and the Hearing Examiner received Exhibit 2 (Discipline Order and Amended Discipline Order) and Exhibit 3 (Notice of Trial) upon the record; and
9. The testimony having concluded, the Commissioners adjourned into closed session pursuant to Wis. Stat. §19.85(1)(a) and (c) to consider the evidence and the charges; and

DECISION

10. The Commissioners resumed in open session and announced their decision of Phase I as follows:

We find by a preponderance of evidence by a unanimous vote of the three Commissioners:

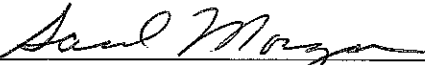
- a. The Sgt. had a reasonable belief regarding the consequences of the alleged conduct: Answered "yes."
- b. The rules and policies allegedly violated are reasonable: Answered "yes."

- c. A reasonable effort was made to discover whether the officer, in fact, violated rules and policies: Answered "yes."
 - d. The investigation was both fair and objective: Answered "yes."
 - e. There is substantial evidence that the Sgt. violated the rules and policies alleged: Answered "yes."
11. The Assistant City Attorney presented Assistant Chief of Police Liebrecht who testified the Chief's initial Order was defective and the Amended Order No. 2009-219 dated December 21, 2009 determined that Sgt. Corn should be suspended for 30 days for violation of Rule 5, Section 2/500.25, and that he be discharged from the Department for the violation of Rule 5, Section 2/500.55, and that such determination was for the good of the Department; and
12. There being no further testimony offered by the Chief of Police, and there being no appearance by Sgt. Corn or a representative, the testimony was closed and the Commissioners adjourned into closed session pursuant to Wis. Stat. §19.85(1)(a) and (c) to consider the penalty; and
13. The Commissioners returned and in open session announced their decision, which decision was unanimous and each Commissioner was polled, and as to:
- f. The discipline applied by the Chief was fair and without discrimination: Answered "yes."
 - g. This discipline reasonably relates to the seriousness of this violation and to the Sgt.'s service record with the Department: Answered "yes."

The penalty was upheld, and there being no further matter before the Commission, the matter was closed.

Board of Fire and Police Commissioners of the City of Milwaukee


By:


Commissioner Sarah W. Morgan

5/6/10
Date


Commissioner Kathryn A. Hein

5/6/10
Date


Commissioner Paoi X. Lor

5/6/10
Date